

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

Judge David Folsom

MCCUNE)	
)	
V.)	CIVIL NO. 5:09CV107
)	
GRACO CHILDREN'S PRODUCTS)	

ATTORNEY FOR PLAINTIFFS:	Darby Doan; Morgan Vaughan; Alan Loewensohn; Evan Douthit; Doublas Gentile
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ATTORNEY FOR DEFENDANTS:	John Greer; Joseph Krasovec; Jeff Patterson; Heidi Oertle;
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LAW CLERK:	Evelyn Chen
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COURTROOM DEPUTY:	Mel Martin
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COURT REPORTER:	Libby Crawford
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MOTION HEARING AND FINAL PRETRIAL CONFERENCE

August 8, 2011 @ 9:30 a.m.

OPEN: 9:25 ADJOURN: 10:48

9:25 ct opens; ct/ jury selection process; try to be here around 9am; will seat 14 in the jury box and remaining in the audience; 3 mins for factual summary; 20 mins to question the panel; do not give schedule of the trial, I will take that up at the conclusion; how many attys will be questioning the panel; pty's respond; ct/ only the one questioning the panel can approach the bench; 10 person jury; 4 strikes each side;

9:30 Krasovec/ will alternates be seated;

9:31 ct/ responds; 10 will be seated and all will serve; during JS and case stay within touching distance of the podium; any exhibits without objection can be used during JS; slides to be used at JS need to be exchanged; will any aids be used during JS?

9:32 Doan/ just an example of the safety seat;

9:33 Patterson/ no objection and nothing to exchange;

9:33 ct/ will go 4 days next week and no court Thursday and Friday of the following week and if not finished can complete it the week of the 29th; will take up issues at the end of the day; will begin promptly at 9am;

9:35 Doan/ McCune's will not be here during the trial;

9:36 ct/ you are welcome to do so, tomorrow; any questions about JS or schedule; Judge Craven will meet with you re: exhibits, tomorrow afternoon; time to talk about motions in limine; will start with plfs motions; motion, response, and then reply

9:37 Gentile/ motion in limine # 1;

9:42 ct/ clients posting on My Space;

9:43 Gentile/ responds;

9:43 ct/ other part of the motion and then we will have response;

9:43 Loewensohn/ argues motion;

9:44 ct/ would you put in your stipulation that speed was as low as 60 and as high as 78

9:45 Gentile/ responds, would need to confer;

9:45 Loewensohn/ continues with argument;

9:57 Krasovec/ responds;

9:55 Gentile/ reply;

9:56 Krasovec/ can't agree to that;

9:56 Loewensohn/ reply;

9:57 Gentile/ next motion;

9:59 Krasovec/ responds;

10:01 Gentile/ reply;

10:01 ct/ agree that video and information was provided to you;

10:01 Gentile/ I do agree;

10:02 Gentile/ motion in limine # 3;

10:04 Krasovec/ responds;

10:06 Gentile/ next motion; have withdrawn a portion of this motion;

10:08 Krasovec/ responds;

10:08 Gentile/ reply;

10:09 Loewensohn/ next motion in limine;
10:10 Oertle/ responds; do not agree;
10:10 Loewensohn/ motion in limine # 6, would like to stand on briefing re: My Space issue;
10:11 Krasovec/ responds;
10:11 Gentile/ motion in limine # 8
10:12 Krasovec/ responds;
10:13 Loewensohn/ motion in limine # 10
10:16 Oertle/ responds;
10:16 Loewensohn/ reply;
10:18 ct/ will look at Louisiana case;
10:18 Loewensohn/ motion in limine # 11
10:18 Oertle/ responds;
10:18 Gentile/ motion in limine # 12;
10:19 ct/ will deny that motion and take up objections as they arise;
10:19 Gentile/ motion in limine # 16;
10:21 Oertle/ responds;
10:22 Loewensohn/ motion in limine # 15;
10:22 ct/ do we have the actual photograph available;
10:23 Oertley/ responds;
10:23 ct/ would like to see photographs
10:23 Loewensohn/ reply;
10:24 Gentile/ closes our motions in limine;
10:24 Krasovec/ motions that have been addressed; similar incidents;
10:29 Gentile/ responds; stand on brief;
10:29 ct/ any other motions;
10:30 Oertle/ motion dkt # 139;
10:31 Gentile/ responds;
10:34 Oertle/ reply
10:34 Krasovec/ motion dkt # 140;
10:36 Gentile/ responds;

10:36 Krasovec/ reply;

10:38 Oertle/ motion dkt #142

10:38 Gentile/ responds;

10:41 Oertle/ motion dkt # 146

10:42 Gentile/ responds;

10:44 Oertle/ reply;

10:44 Krasovec/ motion dkt # 144; in large part will stand on brief;

10:45 Gentile/ responds;

10:47 Krasovec/ reply;

10:47 ct/ will try to have an order out by 5pm;

10:48 recess;